



**MINUTES OF SPECIAL JOINT MEETING OF THE
CITY COUNCIL/REDEVELOPMENT AGENCY/PUBLIC
FINANCING AUTHORITY OF THE CITY OF HAYWARD**
City Council Chambers, 777 B Street, Hayward, CA 94541
Tuesday, April 27, 2004, 8:00 p.m.

MEETING

The Special Joint City Council/Redevelopment Agency/Hayward Public Financing Authority Meeting was called to order by Mayor/Chair Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA/HPFA Member Henson.

ROLL CALL

Present: COUNCIL/RA/HPFA MEMBERS Jimenez, Quirk,
Halliday, Ward, Dowling, Henson
MAYOR/CHAIR Cooper
Absent: None

PRESENTATION: Environmental Achievement Award

Mayor Cooper discussed the annual Environmental Achievement Awards recognitions. She noted that the awards honor individuals and multi-family complexes for their commitment to preserving the environment and enhancing their communities. She commented that the Awards reflect the dedication of the business community, the residents and schools to conserving our natural resources and creating a healthier environment. She then introduced and turned the proceedings over to Council Member Henson, Chair of the Council's Environment Committee.

Council Member Henson commented about the quality of the applications. He thanked Waste Management of Alameda County for donating the business award plaques, and a number of restaurants and individuals in the area who contributed to the gift certificates and coordinated this year's awards presentation. Council Member Henson, Mayor Cooper and Ed Mullins from the Chamber of Commerce presented the awards to the recipients and congratulated all for their efforts.

PUBLIC COMMENTS

Barbara Heringer-Swarr indicated that she attended a seminar that focused on eminent domain. She mentioned that consultants are emphasizing to their city clients to settle with property owners to avoid the costs as litigation has resulted in the property owner gaining the higher market value.

John Kyle commented on the recent cancellation notice of the airport meeting and the expense for sending such. He commented on council compensation including stipends when representing the City on other agencies as well as the City's representative and compensation from the Congestion Management Committee.

Rudy Grasseschi spoke on behalf of his family and his business, the Cobblers. He was against the widening of Foothill and Mission Boulevard and commented on the traffic issue.

Bonnie Peyton stated that she was representing Citizens for a Livable Hayward. She was rather upset and concerned on the 238 Corridor widening plan that facilitates commuter traffic and impedes other forms of transportation. She expressed opposition with proposed elevators, the cost of the project and the access of public safety vehicles to the area. The removal of trees will impact the environment. She urged the Council to reconsider the current alternative. Lastly, she submitted a petition of citizens against the project.

CONSENT

Items 2 and 5 were removed for further consideration.

1. Approval of Minutes of the City Council Meeting of April 20, 2004

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to approve the minutes of the City Council Meeting of April 20, 2004.

2. Consolidated Landscaping and Lighting District No. 96-1, Zones 1 through 10 – Preliminarily Approve the Engineer's Report, and Adopt a Resolution of Intention, and Set June 22, 2004, as the Public Hearing Date

Staff report submitted by Development Review Engineer Gaber, dated April 27, 2004, was filed.

It was moved by Council Member Jimenez, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 04-057, "Resolution Preliminarily Approving Engineer's Report, Declaring Intention to Levy Assessments for Fiscal Year 2004-2005, and Setting June 22, 2004, as the Public Hearing Date Concerning Consolidated and Lightening District No. 96-1, Zones 1-10"

3. Maintenance District No. 1 – Storm Drainage Pumping Station and Storm Drain Conduit - Pacheco Way, Stratford Road and Ruus Lane - Preliminarily Approve the Engineer's Report, Adopt a Resolution of Intention and Set June 22, 2004, as the Public Hearing Date

Staff report submitted by Development Review Engineer Gaber, dated April 27, 2004, was filed.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 04-054, "Resolution Preliminarily Approving Engineer's Report, Declaring Intention to Levy Assessments for Fiscal Year 2004-2005, and Setting June 22, 2004, as the Public Hearing Date Concerning Maintenance District No. 1- Storm Drainage Pumping Station and Storm Drain Conduit – Pacheco Road, Stratford Road, and Ruus Lane (MD No. 1)"



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4. Maintenance District No. 2 – Eden Shores Buffer Zone and Pre-Treatment Pond - Preliminarily Approve the Engineer's Report, Adopt a Resolution of Intention and Set June 22, 2004, as the Public Hearing Date

Staff report submitted by Development Review Engineer Gaber, dated April 27, 2004, was filed.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 04-055, "Resolution Preliminarily Approving Engineer's Report, Declaring Intention to Levy Assessments for Fiscal Year 2004-2005, and Setting June 22, 2004, as the Public Hearing Date Concerning Maintenance District No. 2 – Eden Shores Storm Water Facilities and Water Buffer (MD No. 2)"

5. Optical Traffic Signal System Preemption System: Approval of Addenda and Award of Contract

Staff report submitted by Deputy Director of Public Works Bauman, dated April 27, 2004, was filed.

It was moved by Council Member Jimenez, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 04-058, "Resolution Approving Addenda Nos. 1 and 2 and Awarding Contract to Mike Brown Electric Company for the Optical Traffic Signal Preemption System Project, Project Nos. 5750 and 5751"

Resolution 04-059, "Resolution Amending Resolution 03-094, as Amended, the Budget Resolution for Capital Improvement Projects for Fiscal Year 2003-04, Relating to an Appropriation of Funds From the Transportation Improvement System Improvement Fund to Improve the Optical Traffic Signal Preemption-South of 92 Project, Project No. 5751"

6. Sanitary Sewer Lining and Spot Repairs at Highland and Spring Drive Area: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Deputy Director of Public Works/Utilities Ameri, dated April 27, 2004, was filed.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 04-056, “Resolution Approving Plans and Specifications for the Sanitary Sewer Lining and Spot Repairs at Highland Area and Spring Drive Area, Project No. 7598, and Call for Bids”

HEARINGS

7. Appeal of Conditions of Approval Imposed by the Planning Commission Approval of Administrative Use Permit - Application No. 2003-0576 to Allow Truck and Bus Driving School – Moe Janda (Applicant/Owner) – The Property is Located at 2977 Baumberg Street, in an Industrial District (*continued from 4/20/07*)

Staff report submitted by Principal Planner Patenaude, dated April 27, 2004, was filed.

Principal Planner Patenaude made the staff report that recommended denial of the project as the business has been in operation without a use permit. The Planning Commission imposed a schedule for improving the site, but noted that improvements have not begun although the applicant has stated they have.

Council discussion ensued relative to the timeline, the addition of a condition to cause revocation proceedings should the applicant not meet the deadline, as well as the length of time this business has been operating. It was noted that there is a five-foot dedicated easement as part of this project.

Mayor Cooper asked for confirmation as to when the applicant was informed about the need for a use permit. Staff informed that on the issuance of a business license, the applicant was made aware of the use permit issuance. The initial business license was limited to a business office and the business trucks were parked throughout city streets as he had no yard to store them in.

Council Member Quirk indicated that the conditions of approval do not address any traffic safety issues. Principal Planner Patenaude responded that the nearest intersection is not impacted, but drivers in training using large trucks could trigger another traffic problem not previously discussed.

Mayor Cooper opened the public hearing at 9:11 p.m.

Moe Janda, the applicant, reported that he was out of the country for over a month and had some family problems but was working on the paving, and had received fencing proposals and was not aware of what he had to do. He felt that 30 days was not enough to install a fence as he had to submit the plans first.

Steve Hunn, engineer for Mr. Janda, displayed photos of the site before and pointed out the improvements. He indicated that the base rock is adequate for the business. He thought that it was reasonable to complete the improvements within 120 days. He felt that plans could be completed within 30 days and construction started. Mr. Hunn cautioned that there could be unknowns such as issues with the flood control channel next door. He anticipated that a quality set of plans for the street improvements can be submitted within 30 days and 120 days to complete the construction was optimistic. He did not expect issues in the construction of the building.



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Council Member Henson felt that the applicant needs to adhere to the rules and the Council does not want to make special adjustments. He expressed concern on the time line. He asked about the trailers parked along the streets. Mr. Janda stated that he parks the trailers there to prevent the parking of junk vehicles. In response to a question from Council Member Henson, Mr. Janda reported that he has spent over \$600,000.

Council Member Dowling was emphatic that providing additional time might not be the solution, as he could not see a good faith effort or a sense of urgency from the applicant. He declared that he would deny the project unless the applicant accepts the Planning Commission time line.

Council Member Halliday asked whether the applicant would continue to operate the school during the re-construction. When the applicant affirmed, she suggested the business be temporarily closed until this project was completed.

Council Member Ward suggested that the applicant submit the plans within 30 days from Council action today and questioned whether the work could be completed within 120 days. In response to his question on meeting the schedule, City Attorney O'Toole stated that the conditions of approval could be restructured to include revocation procedures.

Mayor Cooper closed the public hearing at 9:21 p.m.

Council Member Jimenez would support the project as there is now a project engineer who understands the issues.

Council Member Dowling moved to uphold the Planning Commission recommendation and follow their schedule from today's Council hearing approval and if the timeline is not met that a revocation hearing be scheduled before the City Council. The motion was seconded by Council Member Ward.

Council Member Henson stated that he would be supporting the motion. Time has past and nothing has been done since the project was before the Planning Commission. He urged both the applicant and his engineer to complete the project prior to the deadline.

Council Member Quirk appreciated that the applicant spent a lot of money, but felt that it was necessary to go through the normal permit process as certain issues in that process have not been discussed such as traffic.

Mayor Cooper would not be supporting the motion based on what has been presented and what has not been presented that could precipitate additional issues. This owner has been operating illegally and now the City is allowing him to continue. She did not agree with this.

Council Member Dowling appreciated the concerns of both Council Member Quirk and Mayor Cooper that this is an illegal business without a use permit. His motion would allow the applicant opportunity to rectify his situation, but emphasized that he would not be supporting any further extensions as this business is already operating without the proper use permit.

Council Member Halliday stated that she was on the Planning Commission when this matter was heard and has carefully listened to all the information and felt that she could be fair in her consideration and review of this project. She agreed that this is a bit unusual, but in her visit to the property, she found it maintained. She supports small businesses and felt that a truck driving school is needed in Hayward.

It was moved by Council Member Dowling, seconded by Council Member Ward, and carried by the following roll call vote to adopt the following uphold the Planning Commission approval and maintains that timeline.

Resolution 04-060, "Resolution denying the Administrative Use Permit
Application No. PL-2003-0576, Moe Janda (Applicant/Owner)"

AYES:	Council Members Jimenez, Halliday, Ward, Dowling, Henson
NOES:	Council Member Quirk MAYOR Cooper
ABSENT:	None
ABSTAINED:	None

LEGISLATIVE BUSINESS

8. Authorization for the Issuance of Redevelopment Allocation Bonds and Approval of Contracts for Financial and Legal Services

Staff report submitted by Acting Assistant City Manager Carter, dated April 27, 2004, was filed.

Acting Assistant City Manager/Treasurer Carter made the staff recommendation to authorize to issue Redevelopment Agency tax allocation bonds to accomplish two objectives. The first is to refinance outstanding 1996 Tax Allocation bonds to realize a savings of approximately \$175,000. Secondly, the proceeds from the bonds will be utilized to fund the downtown parking project and the cannery area project. The cannery area plan is in coordination with the Hayward Unified School District and the Hayward Area Park District. It includes construction of a new Burbank Elementary School, expansion of Cannery Park and installation of needed infrastructure. One additional deck will be added to the parking structure across from the City Hall and another two additional decks associated with the cinema project. He noted that the resolutions to be acted on include particular conditions on the sale of the bonds and the aggregate principal of the bonds cannot exceed \$48.5 million, the interest costs cannot exceed 5.5%, and the underwriters discount may not exceed 1%. The date of the bonds will be May 26 and it will be a negotiated sale for a term of 30 years. He noted that the financial team is available to respond to questions including the financial adviser, the bond counsel, the disclosure counsel and the bond underwriter. He recommended that the Council, also serving as the Redevelopment Agency and the Hayward Public Finance Authority approve the authorizing resolutions. He responded to questions related to competitive sales of bonds and the refinancing effort.



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In response to a question from Council/RA/HPFA Member Jimenez, he stated that the Redevelopment Agency will be the responsible body for repaying the loan, not the City Council, and it will be paid by a separate source of income. The repaying of the debt will not compete with city services for funding.

Council/RA/HPFA Member Ward thanked the City Manager/Executive Director for his creative efforts towards constructing a brand new school in a neighborhood that is so desperate in need of new facilities in Hayward. He also appreciated that there will be additional parking in the downtown. He also appreciated that the City of Hayward remains committed to seeking capable qualified MBE firms.

Mayor/Chair Cooper opened the public hearing at 9:38 p.m.

Barbara Heringer-Swarr urged a stipulation that school and park in-lieu fees that are paid from the cannery area, be used to pay down the debt. She asked what the total redevelopment debt is. She stated that the taxpayers of the City of Hayward are still responsible for this debt. Additionally, she asked about the number of parking slots that will be given away. She also wanted to know whether the Albertsons property is a sale or a lease and if it is a sale, she urged that it be used to pay down the debt.

City Manager/Executive Director/HPFA Director Armas responded by stating that there will be roughly 375 parking spaces for the cinema project and referenced the tables in the staff report that indicated the various values associated with property. The projected value is in excess of a billion dollars and is not dependent on sales tax, but on property tax. Upon the sale of the bonds, additional information will be provided as to the total debt.

Council/RA/HPFA Member Henson asked about the current state of the bond market.

Richard Clark, Investment Banker and Underwriter for the issuance of these bonds, provided some insight to the current rates and the economy. He noted that the economy is starting to be more favorable and this is a good time to refinance as the rates have been historically low. He noted that the State is also selling its economic recovery bonds to take advantage of the low rates as they begin to ratchet upward.

Mayor/Chair Cooper closed the public hearing at 9:43 p.m.

Council/RA/HPFA Member Dowling asked, referencing Ms. Heringer-Swarr's question, about the use of school and park in-lieu fees and other sources of revenue that might be expected.

City Manager/Executive Director/HPFA Director Armas responded that the Council would need to discuss this when such proceeds are realized.

Council/RA/HPFA Member Ward appreciated staff for being creative in this effort and it is noteworthy that this may be the first time that the City has actively participated in helping to finance a new school in this community. He hoped that there would be some sense of reciprocity from the school district as the City moves ahead on other activities that may require the District's participation. He moved the recommendation with seconds from Council/RA/HPFA Members Henson and Jimenez.

It was moved by Council/RA/HPFA Member Ward, seconded by Council/RA/HPFA Member Henson, and unanimously carried to adopt the following:

Resolution 04-061, “A Resolution of the City Council of the City of Hayward Approving the Issuance of Tax Allocation Bonds by the Redevelopment Agency of the City of Hayward to Refund 1996 Bonds and Finance Redevelopment Activities”

RA Resolution 04-05, “A Resolution of the Redevelopment Agency of the City of Hayward Authorizing the Issuance, Sale and Delivery of Tax Allocation Bonds, Authorizing the Execution and Delivery of Related Documents, and Approving Actions in Connection Therewith”

HPFA Resolution 04-01, “Resolution of The Hayward Public Financing Authority Authorizing the Purchase and Sale of Tax Allocation Bonds Relating to the Downtown Hayward Redevelopment Project, and Approving Related Documents”

COUNCIL REPORTS

There were no Council Reports.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 9:49 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward
Chair, Redevelopment Agency/Public Financing Authority

ATTEST:

Angelina Reyes, City Clerk, City of Hayward
Secretary, Redevelopment Agency/Public Financing Authority